

## REMARKS

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,596,366 to Ohno. Claim 2 has been cancelled, without prejudice, thereby rendering this rejection moot with respect to this claim. However, with respect to Claims 1 and 3-9, Applicants respectfully traverse this rejection.

Applicants respectfully submit that the cited reference fails to disclose or suggest all of the claimed features of the present invention. More specifically, Applicants respectfully submit that the Ohno reference fails to disclose or suggest a recording medium including, *inter alia*, first and second foundation layers, “wherein the second foundation layer is spaced from the first foundation layer at least by as much as a combined thickness of the initial layer and the functional layer.”

One example of an embodiment that includes the above-described features is shown in Applicants’ Figure 2, which includes first foundation layer 21 and second foundation layer 24, wherein the second foundation layer 24 is spaced from the first foundation layer 21 at least by as much as a combined thickness of the initial layer 22 and the functional layer 23.

In the Office Action, in the sentence bridging pages 2 and 3, the Examiner asserted that the lower strata of grain size controlling layer 6 of Figure 1 of Ohno corresponds to the claimed first foundation layer and that the upper strata of the same layer (layer 6) corresponds to the claimed second foundation layer. Although Applicants disagree with this interpretation, Applicants have amended Claim 1 to clearly define the separation of the first and second foundation layers in order to read over such an interpretation. Applicants respectfully submit that layer 6 of the Ohno reference can not


be interpreted as both the first and second foundation layers, "wherein the second foundation layer is spaced from the first foundation layer at least by as much as a combined thickness of the initial layer and the functional layer, " as now defined in independent Claim 1. Accordingly, as all of the features of independent Claim 1 are not disclosed or suggested in the Ohno reference, Applicants respectfully request the withdrawal of this §103 rejection of independent Claim 1 and associated dependent Claims 3-9.

Finally, Applicants have added new Claims 14-18. Support for the subject matter of these new claims can be found in the application, as originally filed, in the description of Example 1, for example. Applicants respectfully submit that new Claims 14-18 are allowable over the references of record.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,  
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